

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

FIDELITY AND DEPOSIT COMPANY)	
OF MARYLAND, a corporation)	
)	
Plaintiff,)	
)	
vs.)	CASE NO.: 2:07CV707-MEF
)	
PEGGY NESSMITH, an individual)	<u>DEFENDANT DEMANDS TRIAL</u>
)	<u>BY STRUCK JURY</u>
Defendant.)	

I. AFFIRMATIVE DEFENSES

1. The Plaintiffs have failed to mitigate their damages.
2. The Plaintiff's claims are barred by the statute of limitations.
3. The Plaintiffs are guilty of contributory negligence.
4. The complaint fails to state a claim upon which relief can be granted.

ANSWER

1. The Defendant is without sufficient knowledge to either admit or deny the allegations of paragraph 1.
2. Admitted.
3. The Defendant is without sufficient knowledge to either admit or deny that the Plaintiff is a citizen of a different State.
4. The Defendant is without sufficient knowledge to either admit or deny the allegations of paragraph 4.
5. Admitted.
6. Denied.

7. The Defendant is without sufficient knowledge to either admit or deny the allegations of paragraph 7.

8. The Defendant is without sufficient knowledge to either admit or deny the allegations of paragraph 8.

9. The Defendant is without sufficient knowledge to either admit or deny the allegations of paragraph 9.

10. Any and all matters not specifically admitted herein are hereby denied.

/s/ **Ronald W. Wise**
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(334) 260-0003
Attorney for Peggy NesSmith

DEFENDANT HEREBY DEMANDS TRIAL BY STRUCK JURY

/s/ **Ronald W. Wise**

CERTIFICATE OF SERVICE

I do hereby certify that on August 27, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Brian A. Dodd and J. Scott Dickens, attorneys for Fidelity and Deposit Company of Maryland.

/s/ Ronald W. Wise